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17 MAY 22 PM 4:32

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 4 Attorney For Petitioner

5 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**6 **IN THE ARIZONA TAX COURT**

7 GINA M. BAYS,

8 Plaintiff,

9 and

10 COCHISE COUNTY,

11 Defendant.

NO. ST2016-000080RESPONSE TO MOTION FOR
SUMMARY JUDGMENT
(Rule 56, ARCP)Assigned to Commissioner
Michael L. Barth

12
 13 Comes now the Plaintiff, GINA M. BAYS, and responds to the Motion For Summary
 14 Judgment and states that the Defendant's Motion is untimely and should be dismissed pursuant
 15 to Rule 56(b)(3), ARCP, which states: "*Filing Deadline*. A summary judgment motion may not
 16 be filed later than the dispositive motion deadline set by the court or local rule, or absent such a
 17 deadline, **90 days before the date set for trial.**" The Motion was filed on May 17, 2017. The
 18 trial date is May 23, 2017. Therefore, the Motion should be summarily dismissed as being
 19 untimely.

20 Additionally, the Defendant raises the same issue in its Summary Judgment Motion that
 21 was raised in the Motion to Dismiss, ie: "This Court not having jurisdiction to consider the sales
 22 price." In order to support the Motion for Summary Judgment, the Defendant provides
 23 essentially the same relevant facts contained in the Motion to Dismiss. The Court denied the
 24 Motion to Dismiss. Therefore, this issue is moot. The Motion to Dismiss technically should be
 25 considered a Motion for Summary Judgment on the issue of "sales price" and DENIED based on
 26 the same reasoning in the motion to dismiss. *Max of Switz., Inc. v. Allright Corp. of Del.*, 187
 27 Ariz. 496, 498, 930 P.2d 1010, 1012 (App.1997).

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1 Additionally, Defendant's position about the inability of this Court to consider the sales
2 price is not supported by the statutes or the case law. This response is supported by the attached
3 memorandum of points and authorities.

4 DATED this 19th day of May, 2017.

5 **BAYS LAW, PC**

6 By: 

7 **P. RANDALL BAYS**
8 Attorney for Plaintiff

9 Copies of the foregoing served this 19th
10 day of May, 2017, to:

11 ELDA E ORDUNO
12 Civil Deputy County Attorney
13 PO Drawer CA
14 Bisbee, AZ 85603